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19 Company, Conseco, Inc. and 40/86 Advisors,
Inc., Conseco Marketing, LLC and Conseco
20 Services, LLC

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21 UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA
23 SAN JOSE DIVISION

24 In re CONSECO INSURANCE CO. ANNUITY
25 MARKETING & SALES PRACTICES LITIG.

Master File No. C-05-04726-RMW
And Related Cases

26 This Document Relates To:

**STIPULATION AND [PROPOSED]
ORDER RE AMENDED COMPLAINT
AND CLASS CERTIFICATION BRIEFING
SCHEDULE**

27
28 ALL ACTIONS.

1 The Parties hereto, through their respective attorneys of record, stipulate as follows and
2 request the Court to enter an order adjusting the current case management schedule and request a
3 conference with the judge to discuss the current trial schedule:

4 1. On March 9, 2007, pursuant to the stipulation of the parties, this Court issued an order
5 making plaintiff's motions for class certification due 90 days after the Court issued its ruling on
6 defendant Conseco Insurance Company's ("CIC") Motion to Dismiss Plaintiff's Second Amended
7 Complaint. On August 8, 2007, the Court issued its ruling, so plaintiff's motion for class
8 certification is due on or before November 6, 2007.

9 2. While defendant CIC's motion was pending, plaintiff served the four new defendants
10 in the Second Amended Complaint, Conseco, Inc., Conseco Services, LLC, Conseco Marketing,
11 LLC and 40/86 Advisors, Inc ("the New Defendants"). The New Defendants' responsive pleadings
12 are currently due by Thursday, August 16, 2007, but plaintiff's counsel has agreed to permit the New
13 Defendants additional time to respond.

14 3. The parties jointly request that the court issue an order setting the following dates:
15 a. New Defendants shall file their Motion to Dismiss Plaintiff's Second
16 Amended Complaint on or before September 14, 2007;

17 b. Plaintiff shall have until November 14, 2007 to conduct discovery on
18 jurisdictional issues raised by New Defendants' Motion to Dismiss;

19 c. Plaintiff shall file his response to New Defendants' Motion to Dismiss on or
20 before November 29, 2007;

21 d. New Defendants shall file their Reply in Support of Motion to Dismiss on or
22 before December 20, 2007; and

23 e. A hearing on the New Defendants' Motion to Dismiss pursuant to Fed. R. Civ.
24 P. 12(b)(2) and 12(b)(6) on January 4, 2008, at 9:00 a.m.

25 4. The parties request that all other previously entered scheduling orders be vacated and
26 further request that the Court schedule a case management conference within 30 days after deciding
27 New Defendants' Motion to Dismiss.

5. Good cause exists for this request because the New Defendants' counsel need additional time to review and research the issues and to frame an appropriate motion to dismiss, and it would be more efficient to defer further scheduling until after the case is at issue.

**BAKER & MCKENZIE LLP
REED SMITH LLP**

DATED: August 16, 2007.

By //s//Linda B. Oliver

Robert D. Phillips, Jr.

Linda B. Oliver

Atorneys for Defendants Conseco Insurance Company, Conseco, Inc. and 40/86 Advisors, Conseco Marketing, LLC and Conseco Services, LLC

BARRACK, RODOS & BACINE

DATED: August 15, 2007.

By //s// John L. Haeussler

John L. Haeussler, Co-Lead Counsel for Plaintiffs

**LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP**

DATED: August 15, 2007.

By //s// John J. Stoia, Jr. (by John L. Haeussler w/ permission)

John J. Stoia, Jr., Co-Lead Counsel for Plaintiffs

IT IS SO ORDERED. IT IS FURTHER ORDERED THAT the trial date, pretrial conference date, and related discovery, class certification and motion deadlines are hereby vacated, the Case Management Conference Order is adjusted in accordance with the above stipulation, and a new case management conference to discuss a new trial date and case management schedule is set for **February 8, 2008 @ 10:30 a.m.**

DATED: 8/20/07

Ronald M. Whyte

Ronald M. Whyte, United States District Judge